

§ 1.153-1

return, then X may claim Child as a dependent in 2009.

Example 19. (i) Y and Z are the divorced parents of Child. In 2003, Y and Z enter into a separation agreement, which is incorporated into a divorce decree, under which Y, the custodial parent, releases Y's right to claim Child as a dependent for all future years. The separation agreement satisfies the requirements for the form of a written declaration in effect at the time it is executed. Z attaches a copy of the separation agreement to Z's returns for 2003 through 2009.

(ii) Under paragraph (e)(1)(ii) of this section, a separation agreement may not serve as a written declaration. However, under paragraph (e)(5) of this section, a written declaration executed in a taxable year beginning on or before July 2, 2008, that satisfies the requirements for the form of a written declaration in effect at the time the written declaration is executed, will be treated as meeting the requirements of paragraph (e)(1) of this section. Therefore, the separation agreement may serve as the written declaration required by paragraph (b)(3)(i) of this section for 2009, and Z may claim Child as a dependent in 2009 and later years.

Example 20. (i) The facts are the same as in *Example 19*, except that in 2009 Y executes a Form 8332 revoking the release of Y's right to claim Child as a dependent for 2010. Y complies with all the requirements of paragraph (e)(3) of this section.

(ii) Although Y executes the separation agreement releasing Y's right to claim Child as a dependent in a taxable year beginning on or before July 2, 2008, under paragraph (e)(5) of this section, Y's execution of the Form 8332 in 2009 is effective to revoke the release. Therefore, section 152(e) and this section do not apply in 2010, and whether Child is the qualifying child or qualifying relative of Y or Z is determined under section 152(c) or (d).

(h) *Effective/applicability date.* This section applies to taxable years beginning after July 2, 2008.

[T.D. 9408, 73 FR 37801, July 2, 2008]

§ 1.153-1 Determination of marital status.

For the purpose of determining the right of an individual to claim an exemption for his spouse under section 151(b), the determination of whether such individual is married shall be made as of the close of his taxable year, unless his spouse dies during such year, in which case the determination shall be made as of the time of such death. An individual legally separated from his spouse under a decree of di-

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vorce or separate maintenance shall not be considered as married. The provisions of this section may be illustrated by the following examples:

Example 1. A, who files his returns on the basis of a calendar year, married B on December 31, 1956. B, who had never previously married, had no gross income for the calendar year 1956 nor was she the dependent of another taxpayer for such year. A may claim an exemption for B for 1956.

Example 2. C and his wife, D, were married in 1940. They remained married until July 1956 at which time D was granted a decree of divorce. C, who files his income tax returns on a calendar year basis, cannot claim an exemption for D on his 1956 return as C and D were not married on the last day of C's taxable year. Had D died instead of being divorced, C could have claimed an exemption for D for 1956 as their marital status would have been determined as of the date of D's death.

§ 1.154 Statutory provisions; cross references.

SEC. 154. *Cross references.* (1) For definitions of "husband" and "wife", as used in section 152(b)(4), see section 7701(a)(17).

(2) For deductions of estates and trusts, in lieu of the exemptions under section 151, see section 642(b).

(3) For exemptions of nonresident aliens, see section 873(b)(3).

(4) For exemptions of citizens deriving income mainly from sources within possessions of the United States, see section 931(e).

[Sec. 154 as amended by sec. 103(c)(2), Foreign Investors Tax Act 1966 (80 Stat. 1551)]

[TD 6500, 25 FR 11402, Nov. 26, 1960; 25 FR 14021, Dec. 21, 1960, as amended by T.D. 7332, 39 FR 44216, Dec. 23, 1974]

ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

§ 1.161-1 Allowance of deductions.

Section 161 provides for the allowance as deductions, in computing taxable income under section 63(a), of the items specified in Part VI (section 161 and following), Subchapter B, Chapter 1 of the Code, subject to the exceptions provided in Part IX (section 261 and following), of such Subchapter B, relating to items not deductible. Double deductions are not permitted. Amounts deducted under one provision of the Internal Revenue Code of 1954 cannot again be deducted under any other provision thereof. See also section 7852(c), relating to the taking into account,